IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.985 OF 2006

Sambhaji Shankar Ambekar. ... Appellant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Vikas Shivarkar, for Appellant.
Miss. M.M. Deshmukh, A.P.P. for State.

CORAM : V.M. KANADE, J.

DATED : 28th MARCH 2006.

P.C. :

Heard learned Counsel for the Applicant and APP for the State.

1. The Applicant is arrested for an offence punishable under Section 302 r/w.498-A of the Indian Penal Code. It is alleged that the applicant has set his wife on fire. It is submitted that the applicant had also sustained 30% burn injuries. It is submitted that the applicant had gone to purchase vegetables. When he came back, he found that his wife was set ablaze. He therefore, went inside and extinguished the fire and ran to the hospital. He also sustained 30% burn injuries. It is submitted that the dying declaration which is recorded by the Police can not be

relied upon because the deceased had sustained 96% burn injuries and it is difficult to accept the prosecution case that in such condition she would not be in a position to give a statement which would run into 3 to 4 pages. It is submitted that the charge sheet has also been filed. The learned APP also submitted that merely because the dying declaration is running into 3 to 4 pages the dying declaration should not be discarded. It is submitted that there is other evidence recorded as the applicant used to harrass the deceased and therefore there is no reason to disbelieve the statement of a lady who was on the death bed. It is an admitted position that the applicant has also sustained 30% burn injuries. It is no doubt true that the witnesses have stated that the applicant and deceased are very often used to quarrel with each other. However, it is difficult to rely on dying declaration which is given by a person who has sustained 96% burn injuries. Apart from that, the charge sheet has also been filed. Under these circumstances, in my view the applicant is entitled to be released on bail.

2. The applicant is released on bail in the sum of Rs.5,000/- with one or two sureties in the like amount. The applicant to report to Wanawadi Police Station once in a month.

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3. The applicant shall not threaten the witnesses. If any complaint is received by the Investigating Officer that the applicant is threatening the witnesses, the Public Prosecutor is at liberty to apply for cancellation of bail.

4. It is clarified that the Trial Court shall not be influenced by any observation made by this Court while passing this order and it may not be construied as an expression of opinion on the merits of the case and shall decide the case on its on merits and in accordance with law.

5. Criminal Application is disposed of.

V.M.KANADE, J.